

ENTERED

February 13, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

JOSEPH FRANK HOMER

Plaintiff,

v.

KILOLO KIJAKAZI,
Acting Commissioner of the Social
Security Administration,

Defendant.

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Civil Action No. 6:21-CV-00057

ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION

Plaintiff Joseph Frank Homer filed this action to appeal the Commissioner of Social Security's decision to deny his application for Social Security disability benefits. Homer claims that the residual functional capacity determination made by the Administrative Law Judge is not supported by substantial evidence.

Pending before the Court is the August 24, 2022 Memorandum and Recommendation ("M&R") signed by Magistrate Judge Julie K. Hampton. (Dkt. No. 15). Magistrate Judge Hampton recommends that the Court grant Homer's construed motion for summary judgment, (Dkt. No. 13), and deny the Commissioner's construed motion for summary judgment, (Dkt. No. 14). Magistrate Judge Hampton further recommends the Court reverse and remand this case to the Commissioner for further consideration.

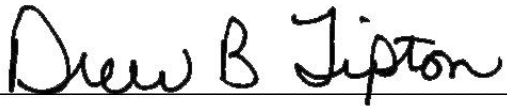
The Parties were provided proper notice and the opportunity to object to the proposed findings and recommendations. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

No objections were filed, so review is for plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005). No plain error appears.

Accordingly, the Court **ACCEPTS** the M&R as the opinion of the Court. The Court **GRANTS** Homer's construed motion for summary judgment, (Dkt. No. 13), and the Court **DENIES** the Commissioner's construed motion for summary judgment, (Dkt. No. 14). The Commissioner's denial of disability benefits is **REVERSED AND REMANDED** for further consideration.

It is SO ORDERED.

Signed on February 11, 2023.



DREW B. TIPTON
UNITED STATES DISTRICT JUDGE